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In re Application of
Biggs, et al.
Application No. 09/752,759
Filed: December 28, 2000
For: **SYSTEM FOR ACCESSING AMENITIES
THROUGH A PUBLIC TELEPHONE NETWORK**

MAIL

Paper No. 25

JUN 14 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DECISION ON PETITION
UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed June 13, 2002, to expunge information from the above identified application.

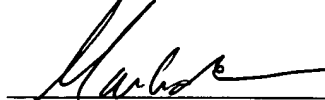
Petitioner requests that the entire protest and its accompanying exhibits, which are subject to a protective order in the case entitled MessagePhone, Inc. v. SVI Systems, Inc. and Tharaldson Property Management, Inc., Civil Action No. 3:97-CV-1813-H filed November 5, 2001, be expunged from the record. Petitioner states that the information contains material that is subject to a protective order which has not been made public and the failure to obtain its return would cause irreparable harm. Petitioner further states that information in the protest was quoted from the exhibits which were under protective order. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The exhibits in question has been determined by the examiner in charge to not be material to the examination of the instant application. The exhibits were filed in accordance with MPEP § 724.02 and hence in accordance with MPEP § 724.05 those exhibits, by themselves, may be expunged.

However, with respect to Petitioner's request that the entire protest be expunged, this information was not submitted pursuant to MPEP § 724.02 or as part of an Information Disclosure Statement, nor was the information inadvertently submitted, part of the original specification or filed in the wrong application.

Therefore, the request to expunge the entire protest, inclusive of the exhibits, is **Denied**.

Petitioner may file a request for reconsideration of this decision within two months of the mailing date of this decision. Should applicant desire reconsideration, he/she should supplement this petition by providing a redacted copy of the protest, i.e., removing the sections allegedly quoting sections of the material under protective order. Upon filing such a request, the redacted protest will be substituted for the protest of record and the non-redacted version of the protest, as well as the exhibits will be sealed together and returned to Petitioner. Alternatively, Petitioner in their request may seek to only have the exhibits expunged. The application will be retained in the special program examiner's office for TC2600 for a period of two months in anticipation of a request.


Mark Powell, Director
Technology Center 2600
Communications